



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Health (State Board of)
VAC Chapter Number:	12 VAC 5-500, 12 VAC 5-501
Regulation Title:	Rules and Regulations Governing the Construction of Migrant Labor Camps
Action Title:	Comprehensive Update through a "Repeal-and-Adopt" Process
Date:	June 20, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

To insure that safe and healthy living conditions are provided for migrant workers and their families while they are employed and living in the Commonwealth.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The Board of Health is authorized by § 32.1-211 of the *Code of Virginia* to adopt regulations governing migrant labor camps. Such regulations may include, but need not be limited to, standards governing:

1. The sites of camps.
2. The provision of an adequate and convenient supply of pure water as defined in § [32.1-167](#).
3. The disposal of sewage as defined in § [32.1-163](#).
4. The storage and disposal of solid waste.
5. The maintenance of the campgrounds.
6. The construction, maintenance, alteration or remodeling of buildings and structures for the housing of migrant workers and their families, including wash and bathrooms, central cooking facilities, central dining rooms, sleeping quarters, assembly rooms, lighting and ventilation.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The regulations, to be proposed, will comprehensively update the current regulations. Due to the nature and extent of the changes and the desire to reorganize all the Department's environmental regulations along a customer-friendly and familiar structure, the existing migrant labor camp regulations will be repealed and a new set of regulations adopted.

The key changes from the existing regulations include elimination of the requirement for all migrant labor camps that provide water via their own well to construct the well in accordance with the Virginia Waterworks Regulations. Migrant labor camps water supplies will have to comply only if they meet the definition of a waterworks. Otherwise, the construction of the well must meet the Private Well Regulations. Another significant change is elimination of provisional permits. Provisional permits were once issued to camps that did not fully comply with the regulations but the deficiencies were such that public health was not at risk. The permits were usually issued contingent upon the camp being brought into total compliance. The Federal Department of Labor and Industry does not recognize provisional permits and have levied fines for camps that had only provisional permits.

Finally, the requirement for bi-weekly inspections is being removed. Bi-weekly inspections, regardless of the compliance record of a migrant labor camp, impose a burden on both the operator and the Department. Camps will still have to comply with the regulations but the Department will have the flexibility to inspect them as frequently as necessary to ensure compliance. This will allow us to focus inspection efforts on those camps with less than adequate compliance histories. All other changes are for clarity and uniformity.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Eliminating the regulations were considered but the regulations were determined to be essential to protect the health of the migrant workers in the Commonwealth. Several migrant advocacy groups would strongly oppose any move to repeal the regulations.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulations will have a positive impact on migrant families in Virginia. Many migrant workers come to Virginia with their families, some of who will also work, some will not, particularly small children. The regulations will help ensure that the families will live in safe and healthy conditions by setting minimum standards for construction and maintenance of migrant labor camps.